

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

In re: Michael Kevin Hoffman)
Petitioner,) Third Cir. No. _____

PETITION FOR WRIT OF MANDAMUS

1. Pursuant to 28 U.S.C. § 1651, Petitioner, Michael Kevin Hoffman hereby petitions this Court to issue a writ of mandamus to directed the Honorable Joseph J. Farnan Jr of the United District Court for the District of Delaware to Delaware.

STATEMENT OF FACTS

2. Petitioner filed a writ of Habeas Corpus on 8/2/2006 raiseing Issues for releif, under 28 U.S.C 2254, ON 12/7/2006 AN ORDER WAS ISSUEDgranting an extension of time for the state of Delaware to provide State Court Records which a deadline was set for 12/29/2006, at the current time a ruleing was not rendered on this matteras this motion has been ongoing since 12/29/2006, Petitioner Submitted corispondence letters to this court seeking releif and a ruleing on this matter also petitioner filed a Reply to Defendents Answer Complaint which he currently has not received an answer with regards to this pending motion..

STATEMENT OF THE ISSUESS

3. The issue raised in this petition is whether the United States District Court for the District of Delaware is refusing to Carefully Review petitioners motion and the grounds which he raises for releif that the Superior Court New Castle County on the original sentence did not comply with Delaware senate bill 50, 11. DEL C. 4333, THAT DEFENSE COUNSEL BEING PERSONAL FRIENDS WITH THE SENTENCING JUDGE CONSTITUTED CONFLICT OF INSTREST IN THE VOP HEARING DATED JUNE 2006, AND THAT HIS CONSTITUTIONAL RIGHTS WERE VIOLATED BY DELAWARE SUPERIOR COURT..

REASONS WHY THE WRIT SHOULD ISSUE

4. Due to the reason that petitioner has not currently had a ruleing on his

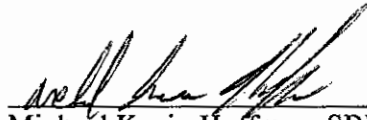
motion filed back in 8/2006 when the US DISTRICT COURT ORDERED THAT THE RECORD OF THIS CASE WAS TO BE COMPLETED BY 12/29/06 and that no ruling has been currently rendered that this matter has been ongoing for the past nine months without petitioners' rights to an appeal in this court due to a ruling has not been currently rendered in this case ,.

It is without question that the United States District Court for the District of Delaware must Rule Upon this Motion at the earliest convenience which petitioner may address his appellant arguments to this court on his appellant procedure.

Therefore, the writ should be issue.

RELIEF SOUGHT

Petitioner seeks THIS COURT DIRECT AN ORDER TO THE US. DISTRICT COURT,
TO RULE UPON THIS MOTION, AND THAT PETITIONER BE GRANTED A RELEASE
FROM CUSTODY.



Michael Kevin Hoffman, SBI#00426044
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

Dated: 4/2/2007

CERTIFICATE OF SERVICE

I, Michael Kevin Hoffman, hereby declare that I have served the parties below on this 04 day of April, 2007, by First Class U.S. Mail from the Delaware Correctional Center, Smyrna, DE 19977:

Office of the Clerk
United States District Court
District of Delaware
844 King Street
Wilmington, DE 19801

Elizabeth Roberts McFarlan
Department of Justice
820 North French Street

Wilmington Delaware 198041

/s/ 
Michael Kevin Hoffman

Pursuant to 28 U.S.C. § 1746

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

Peter T. Dalleo
CLERK OF COURT

LOCKBOX 18
844 KING STREET
U.S. COURTHOUSE
WILMINGTON, DELAWARE 19801
(302) 573-6170

January 31, 2007

TO: Michael Kevin Hoffman
SBI# 00426044
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

RE: *Status Letter; 06-473(JJF)*

Dear Mr. Hoffman:

This office received a letter from you requesting the status of your case. Your case is assigned to Honorable Joseph J. Farnan, Jr., and is pending before the Court. You will be advised by the Court as to further developments in your case.

I trust that this letter answers your questions concerning this matter. Nothing contained in this letter is intended to express an opinion as to the merits of any claims which you may be alleging.

Sincerely,

/ead

PETER T. DALLEO
CLERK

cc: The Honorable Joseph J. Farnan, Jr.
enc: Docket Sheet

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

Peter T. Dallo
CLERK OF COURT

LOCKBOX 18
844 KING STREET
U.S. COURTHOUSE
WILMINGTON, DELAWARE 19801
(302) 573-6170

March 20, 2007

TO: Michael Kevin Hoffman
SBI# 00426044
Delaware Correction Center
1181 Paddock Road
Smyrna, DE 19977

RE: *Request for Copywork; 06-473 (JJF)*

Dear Mr. Hoffman:

A letter has been received by the Clerk's office from you requesting a copy of the docket sheet.

Please be advised that in accordance with the directive from the Judicial Conference of the United States the fee for copywork is fifty (\$.50) cents per page. *Should you require copywork in the future*, please be aware of this fee requirement. Prepayment in the amount of \$2.00 should be sent with your request, check or money order payable to Clerk, U.S. District Court.

Nothing contained in this letter is intended to express an opinion as to the merits of any claims which you may be alleging.

Sincerely,

/ead

PETER T. DALLEO
CLERK

cc: The Honorable Joseph J. Farnan, Jr.

HABEAS, PaperDocuments

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:06-cv-00473-JJF
Internal Use Only**

Hoffman v. Bianco et al
Assigned to: Honorable Joseph J. Farnan, Jr.
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 08/02/2006
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner**Michael Kevin Hoffman**

represented by **Michael Kevin Hoffman**
SBI# 00426044
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947
PRO SE

V.

Respondent**Warden Vincent Bianco**

represented by **Elizabeth Roberts McFarlan**
Department of Justice
820 N. French St.
Wilmington, DE 19801
(302) 577-8400
Email: elizabeth.mcfarlan@state.de.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

**Attorney General of the State of
Delaware**

represented by **Elizabeth Roberts McFarlan**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/02/2006	<u>1</u>	PETITION for Writ of Habeas Corpus (Filing fee \$ 5, receipt number 144258.)- filed by Michael Kevin Hoffman.(mwm,) (Entered: 08/03/2006)
08/09/2006	<u>2</u>	Case assigned to Judge Joseph J. Farnan, Jr. Please include the initials of the Judge (JJF) after the case number on all documents filed. (rjb,)

		Vincent Bianco answer due 12/1/2006; Attorney General of the State of Delaware answer due 12/1/2006. Signed by Judge Joseph J. Farnan, Jr. on 10/23/06. (dab,) (Entered: 10/24/2006)
11/03/2006	● <u>14</u>	Letter to Judge Joseph J. Farnan, Jr. from Michael K. Hoffman regarding Status of Incarceration and Dept of Justice's answer to Habeas. (dab,) (Entered: 11/06/2006)
11/06/2006	●	Remark: Plaintiff's address updated per envelope filed 11/3/06 (els,) (Entered: 11/06/2006)
12/01/2006	● <u>15</u>	RESPONSE to Petition for Writ of Habeas Corpus by Vincent Bianco, Attorney General of the State of Delaware.(McFarlan, Elizabeth) (Entered: 12/01/2006)
12/01/2006	● <u>16</u>	First MOTION for Extension of Time to File <i>Certified State Court Records</i> - filed by Vincent Bianco, Attorney General of the State of Delaware. (Attachments: # <u>1</u> Text of Proposed Order)(McFarlan, Elizabeth) (Entered: 12/01/2006)
12/07/2006	● <u>17</u>	ORDER granting <u>16</u> Motion for Extension of Time to File State Court Records; to be filed by 12/29/06. Signed by Judge Joseph J. Farnan, Jr. on 12/7/06. (bkb) (Entered: 12/08/2006)
12/07/2006	●	Set Deadlines: Notice of Compliance deadline set for 12/29/2006 for filing of State Court Records. (bkb) (Entered: 12/08/2006)
12/14/2006	● <u>18</u>	NOTICE of filing the following document(s) in paper format: State Court Records. Original document(s) on file in Clerk's Office. Notice filed by Elizabeth Roberts McFarlan on behalf of Vincent Bianco, Attorney General of the State of Delaware (McFarlan, Elizabeth) (Entered: 12/14/2006)
12/14/2006	● <u>19</u>	STATE COURT RECORD filed by Vincent Bianco, Attorney General of the State of Delaware. (Record on file in Clerk's Office) (maw) (Entered: 12/15/2006)
01/24/2007	● <u>20</u>	Letter to Judge Joseph J. Farnan, Jr. from Michael Hoffman regarding Status of Case. (dab) (Entered: 01/25/2007)

		(Entered: 08/09/2006)
08/14/2006	<u>2</u>	Letter to Clerk from Michael Hoffman advising of change of address and requesting copy of docket. (maw,) (Entered: 08/15/2006)
08/15/2006		Remark: Plaintiff's address updated per letter filed 8/14/06 (els,) (Entered: 08/15/2006)
08/15/2006	<u>3</u>	Letter to Michael Hoffman from Clerk enclosing docket sheet in response to <u>2</u> Letter. (maw,) (Entered: 08/15/2006)
08/15/2006	<u>4</u>	ORDER notifying petitioner that AEDPA applies to petition and petitioner must file attached election form with the court. (Copy to pet. with Mag. Consent Form & AEDPA Form) Notice of Compliance deadline set for 9/29/2006.. Signed by Judge Joseph J. Farnan, Jr. on 8/15/06. (dab,) (Entered: 08/16/2006)
08/22/2006	<u>5</u>	AEDPA Election Form filed by petitioner and requesting to rule on 2254 as currently pending. (dab,) (Entered: 08/23/2006)
08/29/2006	<u>6</u>	SEALED MEMORANDUM in Support re <u>1</u> Petition for Writ of Habeas Corpus filed by Michael Kevin Hoffman. (dab,) (Entered: 08/30/2006)
09/06/2006	<u>7</u>	ORDER, Clerk shall serve by certified mail a copy of the petition, the memorandum in support, the order dated 8/15/06, the AEDPA election form and this order upon the Warden and the Attorney General. Within 45 days of receipt, respondents shall respond as directed. (Copy to petitioner, Warden & AG). Signed by Judge Joseph J. Farnan, Jr. on 9/6/06. (dab,) (Entered: 09/07/2006)
09/07/2006		Copies of Order DI #7, DI #1, DI #4, DI #5, DI #6 and Mag Consent forms sent to Loren Meyers and Warden Robert George by certified mail (dab,) (Entered: 09/07/2006)
09/07/2006	<u>8</u>	Postal Receipt(s) for the mailing of process to Attorney General of the State of Delaware (dab,) (Entered: 09/07/2006)
09/07/2006	<u>9</u>	Postal Receipt(s) for the mailing of process to Vincent Bianco (dab,) (Entered: 09/07/2006)
09/11/2006	<u>10</u>	Return of Service Executed (2254 petition). Attorney General of the State of Delaware served on 9/8/2006, answer due 10/23/2006. (maw,) (Entered: 09/12/2006)
09/11/2006	<u>11</u>	Return of Service Executed (2254 petition). Vincent Bianco served on 9/8/2006, answer due 10/23/2006. (maw,) (Entered: 09/12/2006)
10/20/2006	<u>12</u>	First MOTION for Extension of Time to File Answer re <u>1</u> Petition for Writ of Habeas Corpus - filed by Vincent Bianco, Attorney General of the State of Delaware. (Attachments: # <u>1</u> Text of Proposed Order) (McFarlan, Elizabeth) (Entered: 10/20/2006)
10/23/2006	<u>13</u>	ORDER Granting re <u>12</u> First MOTION for Extension of Time to File Answer re <u>1</u> Petition for Writ of Habeas Corpus filed by Vincent Bianco, Attorney General of the State of Delaware. Set/Reset Answer Deadlines:

D.I. 15

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MICHAEL KEVIN HOFFMAN,

Petitioner,

v.

Civ. Act. No. 06-473-JJF

VINCENT BIANCO, Warden,
and CARL C. DANBERG, Attorney
General for the State of Delaware,

Respondents.

ANSWER

Pursuant to Rule 5 of the Rules Governing Section 2254 Actions, 28 U.S.C. foll. § 2254, respondents state the following in response to the petition for a writ of habeas corpus:

On December 29, 1999, the petitioner, Michael Kevin Hoffman, was arrested, and he was subsequently indicted on the charge of sexual solicitation of a child. *See* Del. Super. Ct. Crim. Dkt. Items 1 & 3 in case no. 9912017771. In August 2001, Hoffman entered a guilty plea in Delaware Superior Court on the charge. *Id.* at Item 13. Following a pre-sentence investigation, a Delaware Superior Court judge in August 2001 sentenced Hoffman to five years of incarceration, suspended after a year for four years of Level IV home confinement, suspended in turn after six months for the balance to be served at Level III supervision. *Id.* at Items 19-20. Hoffman did not appeal his conviction or sentence.

In July 2004, Hoffman was arrested for an alleged violation of the terms of his Level IV probation. *See id.* at Item 29. After a hearing, a Superior Court judge found Hoffman in violation and re-sentenced him to two years of incarceration, suspended after six months for one year and six months at Level IV home confinement, suspended after six months for one year of

Level III supervision. *See id.* at Item 34. Hoffman was found in violation an additional four times over the course of the next two years. *See id.* at Items 54, 65, 75, & 97. Hoffman docketed an appeal from the September 2, 2004 violation of probation sentence, but later voluntarily withdrew the appeal. *See id.* at Item 50. Ultimately, Hoffman was sentenced on November 9, 2006 for his fifth violation of probation to nine months of Level V incarceration with no probation to follow. *See id.* at Item 97. During the two-year period following his first violation of probation, Hoffman filed three state habeas petitions and six motions for modification of sentence, all of which were denied by Superior Court. *See generally id.* In January 2005, Hoffman also attempted to file a petition for habeas corpus in the Delaware Supreme Court, but that petition was dismissed for lack of jurisdiction. *See id.* at Item 53. On October 30, 2006, Hoffman voluntarily dismissed his appeal from the denial of his most recent motion for sentence modification. *Id.* at Item 96.

Discussion

In his petition for federal habeas relief, Hoffman raises three grounds for relief: (1) the Department of Correction failed to place Hoffman at work release in a timely manner; (2) ineffective assistance of counsel because counsel tried to have Hoffman placed in an inpatient treatment program, and counsel had a conflict of interest at the violation of probation hearing in June 2006 because counsel was personal friends with the judge; and (3) Hoffman's June 2006 sentence and modified sentence did not comply with Delaware Senate Bill 50.¹ D.I. 1 at 6-9.

A federal court may consider a habeas petition filed by a state prisoner only "on the ground that he is in custody in violation of the Constitution or laws or treaties of the United

¹ Hoffman does not specify which sentence was in violation of Senate Bill 50. However, he does refer to his July 2006 state petition for habeas corpus relief in which he complains about the June 2006 sentencings. *See* D.I. 1 at 9; Del. Super. Ct. Crim. Dkt. Items 78 & 79.

States." 28 U.S.C. § 2254(a). "In order for a claim alleging constitutional violations to be cognizable under the federal habeas corpus statute, the petition must also challenge the fact or length of confinement and seek immediate or speedier release." *Phillips v. Kearney*, 2003 WL 2004392, *2 (D. Del. Apr. 21, 2003) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973) and *Heck v. Humphrey*, 512 U.S. 477, 480-81 (1994)). Only claims where the requested relief will result in a shorter term of actual confinement can properly be brought in a federal habeas petition. *See Preiser*, 411 U.S. at 487; *see Leamer v. Fauver*, 288 F.3d 532, 543 (3d Cir. 2002). If a favorable decision will not change the prisoner's release date, then the claim is properly brought as a claim under 42 U.S.C. § 1983. *Leamer*, 288 F.3d at 543-44. Hoffman's claim is that he was not placed at work release while other prisoners were placed there. D.I. 1 at 6. Further, he asserts that he should have been held at Level III supervision (i.e., intensive probation) rather than Level V (incarceration) while awaiting placement at work release. *Id.* But Hoffman's sentence remains the same length whether he spends the time at Level V or Level IV. Thus, Hoffman's claim affects a condition of imprisonment, not the length or validity. Therefore, the instant claim does not assert an issue cognizable on federal habeas review. *See Boyd v. Carroll*, 2006 WL 839399, *1-2 (D. Del. Mar. 30, 2006) (collecting cases). Moreover, because Hoffman was eventually moved to work release, the claim is also moot. This claim must be dismissed.²

In addition, Hoffman complains that his June 2006 violation of probation sentences were imposed in violation of Delaware Senate Bill 50. Senate Bill 50 was a 2003 amendment to § 4333 of Title 11 of the Delaware Code. The amendment limited the period of probation or

² Where a prisoner fails to allege a deprivation of a federal right, it is unnecessary to determine whether he satisfied the exhaustion requirement. *Tillett v. Freeman*, 868 F.2d 106, 108 (3d Cir. 1989).

suspension that the trial court may impose for sentences imposed after June 1, 2003. *See Richardson v. State*, 2005 WL 3454229, *1 (Del. Dec. 16, 2005). Hoffman was originally sentenced in May 2003³ to serve five years in prison, suspended after one year for four years at Level IV home confinement, suspended in turn after six months for the balance at Level III supervision. *See* Del. Super. Ct. Crim. Dkt. Item 20. The sentences imposed by Superior Court for Hoffman's violation of probation in September 2004, March 2005 and August 2005 each required, *inter alia*, that he serve one year of Level III probation. *Id.* at Items 34, 57, 66. The June 8, 2006 sentence imposed no Level III time, the June 22, 2006 sentence imposed eighteen months at Level III, and the November 9, 2006 sentence imposed no probationary term. *Id.* at Items 78, 79, and 97. In general, the amended § 4333 allows for only a year of probation (Level III or below), but certain exceptions apply. Section 4333(d) allows the sentencing court to exceed the limit when imposing sentence for a conviction of any sex offense defined in § 761 if the sentencing court determines that a longer period of probation would reduce the likelihood that the offender will re-offend. DEL. CODE ANN. TIT. 11, § 4333(d)(1) (2004 Supp.). In addition, the court can exceed the limit when imposing sentence following conviction for a "violent felony," as defined in § 4201(c) of Title 11. DEL. CODE ANN. TIT. 11, § 4333(d)(2) (2004 Supp.).

Hoffman's original sentence, imposed on May 30, 2003, included more than a year of Level III probation. The original sentence was imposed before the enactment of the statute. Section 4333(j) provides that the probation limits shall apply to sentences imposed prior to June 1, 2003 only after an application by the Department of Correction has been made and considered by the court. There is no record of any such application being filed by the Department of

³ Sentencing was delayed in part so that various psychological assessments could be completed prior to sentencing. *See* Del. Super. Ct. Crim. Dkt. at Item 17.

Corrections. Further, the limitations do not apply to Hoffman because he was convicted of sexual solicitation of a child (DEL. CODE ANN. TIT. 11, § 1112A), a sex offense as defined in § 761 and a violent felony as defined in § 4201(c). See DEL. CODE ANN. TIT. 11, §§ 761(d) (2004 Supp.) ("Sexual offense" means any offense defined by §§ 763-780 and §§ 1108-1112A of this title."); 4201(c) (2001). Thus, there is simply no basis for Hoffman's claim regarding amended § 4333, and this claim should be dismissed.⁴

Hoffman also complains that his counsel was ineffective in various ways at his June 2006 violation of probation hearings. These claims, however, are unavailing. A state petitioner seeking federal habeas relief must first exhaust remedies available in the state courts. 28 U.S.C. § 2254(b); *Castille v. Peoples*, 489 U.S. 346, 351 (1989); *Rose v. Lundy*, 455 U.S. 509, 515 (1982); *Picard v. Connor*, 404 U.S. 270, 275 (1971); *Alston v. Redman*, 34 F.3d 1237, 1241-42 (3d Cir. 1994). In order to demonstrate that a claim has been exhausted in state court, a petitioner "must show that he presented each claim to the Delaware Supreme Court." *Bailey v. Snyder*, 855 F. Supp. 1392, 1399 (D. Del. 1993); see also *Picard*, 404 U.S. at 275; *Stevens v. Delaware Corr'l Center*, 295 F.3d 361, 369 (3d Cir. 2002); *Burkett v. Love*, 89 F.3d 135, 138 (3d Cir. 1996); *Toulson v. Beyer*, 987 F.2d 984, 986 (3d Cir. 1993). The habeas petitioner must afford each level of the state courts a fair opportunity to address the claims. See *Doctor v. Walters*, 96 F.3d 675, 678 (3d Cir. 1993).

⁴ Alternatively, to the extent that Hoffman raises a federal claim regarding his sentencing, the claim is also unexhausted. Hoffman has not presented his claim to the state supreme court. Further, a claim of an illegal sentence can be raised at any time under Superior Court Criminal Rule 35(a). See *Fatir v. Thomas*, 106 F. Supp. 2d 572, 582 (D. Del. 2000). Thus, Hoffman is not clearly foreclosed from returning to state court to exhaust this claim. However, because Hoffman violated the probation imposed on June 22, 2006 before a year had run (just as he violated his original term of probation before a year had run), and he has now been sentenced to a term of incarceration without any probation to follow, the claim is moot.

Here, Hoffman has not presented his ineffectiveness claims to the state supreme court. Although Hoffman filed numerous motions for sentence modification and petitions for state habeas relief in Superior Court, he did not appeal any of the denials of these filings to the state supreme court. *See generally* Del. Super. Ct. Crim. Dkt. Hoffman also voluntarily withdrew his appeal from the Superior Court order, dated July 20, 2006, denying a petition for a writ of habeas corpus. *See id.* at Item 93. Thus, Hoffman's claims are unexhausted. Moreover, the proper procedural vehicle for raising ineffective assistance of counsel claims is a postconviction action under Superior Court Criminal Rule 61. *See Webster v. Kearney*, 2006 WL 572711, *4 (D. Del.); *Lecates v. Carroll*, 2003 WL 22937779, *4 (D. Del.); *Flamer v. State*, 585 A.2d 736, 753 (Del. 1990). The time for filing a postconviction motion has not yet expired. Del. Super. Ct. Crim. R. 61(i)(1).⁵ In addition, as explained, for example, by this Court in *Lecates v. Carroll*, 2003 WL 22937779, *4 (D. Del.), none of the other procedural bars in Criminal Rule 61(i) would apply to a claim of ineffective assistance raised by Hoffman. A fair reading of Criminal Rule 61 thus indicates that Hoffman can present his allegations of ineffective assistance to the state courts, and in the absence of a state court decision clearly foreclosing his return to the state courts, Hoffman has an available state remedy. *See Toulson*, 987 F.2d at 987-89. Because Hoffman has an available state remedy, resort to which is not clearly foreclosed, by which to present his claim of ineffective assistance, the claim is unexhausted. In turn, because Hoffman's claim of ineffective assistance is not exhausted, the petition must be dismissed. *See Coleman v. Thompson*, 501 U.S. 722, 731 (1991) ("This Court has long held that a state prisoner's federal

⁵ Under the rule, a prisoner has one year from the time that his adjudication of a probation violation becomes final in which to file a state postconviction motion. Hoffman's June 8, 2006 violation of probation became final, for purposes of the rule, on July 10, 2006, when the time for filing a direct appeal to the state supreme court expired. DEL. SUPER. CT. CRIM. R. 61(m)(1). Thus, Hoffman has until July 2007 to move for state postconviction relief regarding that particular finding of a probation violation.

habeas petition should be dismissed if the petitioner has not exhausted state remedies as to any of his federal claims.").

Conclusion

Based upon the Superior Court docket sheets, it appears that transcripts of Hoffman's sentencing (May 30, 2003), first violation of probation hearing (September 2, 2004), fourth violation of probation hearing (June 8, 2006), and fifth violation of probation hearing (June 22, 2006) have been prepared. In the normal course of business, Hoffman's second and third violation of probation hearings (Feb. 10, 2005 and August 4, 2005) would have been recorded, but the transcript does not appear to have been prepared. In the event that the Court directs the production of any transcript, respondents cannot state with specificity when such transcript would be available. However, respondents reasonably anticipate that such production would take 90 days from the issuance of any such order by the Court.

For the foregoing reasons, the petition for a writ of habeas corpus should be dismissed without prejudice.

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 3759
elizabeth.mcfarlan@state.de.us

Date: December 1, 2006

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 1

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969

AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

Assigned Judge:

Charges:

Count	DUC#	Crim.Action#	Description	Dispo.	Dispo. Date
001	9912017771	IN00010272	SEX SOLIC CHILD	GLTY	08/21/2001
	9912017771				
	9912017771				
	9912017771				
	9912017771				
	9912017771				
	9912017771				

No.	Event Date	Event	Judge
	01/06/2000	CASE ACCEPTED IN SUPERIOR COURT.	
		PRELIMINARY HEARING DATE: 01/06/2000	
		BAIL:	
		RELEASED ON SECURED BAIL 20000.00 100	
		BAIL CONDITIONS; NO CONTACT WITH VICTIM, REPORT TO PROBATION OFFICER AND PRESIGNED WAIVE.	
2	02/28/2000	NOTICE OF SERVICE OF DISCOVERY AND ACKNOWLEDGEMENT OF RECEIPT OF DISCOVERY RESPONSE.	
3	02/28/2000	INDICTMENT, TRUE BILL FILED. NO 77	
		CASE REVIEW AND ARRAIGNMENT ON 3/20/00 AT 9:00	
	03/20/2000		DEL PESCO SUSAN C.
		CASE REVIEW & ARRAIGNMENT CALENDAR: SET FOR FINAL CASE REVIEW.	
		DATE: 042400. ARWRNG.	
	04/24/2000		QUILLEN WILLIAM T.
		FINAL CASE REVIEW: TRIAL DATE TO BE SET.	
		REFERRED TO TTPEND CALENDAR FOR TRIAL DATE SELECTION.	
		(3 DAYS)	
4	06/16/2000	ORDER SCHEDULING TRIAL FILED.	
		TRIAL DATE: 12/05/2000	
		CASE CATEGORY: CAT 1	
		ASSIGNED JUDGE DELPESCO	
		UNLESS THE COURT IS ADVISED WITHIN 2 WEEKS OF THE UNAVAILABILITY	

CERTIFIED AS A TRUE COPY
 ATTEST SHARON AGNEW
 PROTHONOTARY
 BY *[Signature]*

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 2

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969
 AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
		OF NECESSARY WITNESSES, THE COURT WILL CONSIDER THE MATTER READY FOR TRIAL. ABSENT EXCEPTIONAL CIRCUMSTANCES, RESCHEDULING OR CONTINUANCE REQUESTS WILL BE DENIED.	
5	11/20/2000	SUBPOENA(S) MAILED.	
7	11/27/2000	STATE'S WITNESS SUBPOENA ISSUED.	
6	12/05/2000	TRIAL CALENDAR-CONTINUED. DEFENSE REQUEST.	GOLDSTEIN CARL
8	05/11/2001	DEFENDANT ILL ORDER SCHEDULING TRIAL FILED. TRIAL DATE: 6/14/01 CASE CATEGORY: <u>1</u> ASSIGNED JUDGE (CATEGORY 1 CASES ONLY): COOCH UNLESS THE COURT IS ADVISED WITHIN 2 WEEKS OF THE UNAVAILABILITY OF NECESSARY WITNESSES, THE COURT WILL CONSIDER THE MATTER READY FOR TRIAL. ABSENT EXCEPTIONAL CIRCUMSTANCES, RESCHEDULING OR CONTINUANCE REQUESTS WILL BE DENIED.	
9	05/29/2001	SUBPOENA(S) MAILED.	
10	06/15/2001	ORDER SCHEDULING TRIAL FILED. TRIAL DATE: 8/23/01 CASE CATEGORY: <u>1</u> ASSIGNED JUDGE (CATEGORY 1 CASES ONLY): COOCH UNLESS THE COURT IS ADVISED WITHIN 2 WEEKS OF THE UNAVAILABILITY OF NECESSARY WITNESSES, THE COURT WILL CONSIDER THE MATTER READY FOR TRIAL. ABSENT EXCEPTIONAL CIRCUMSTANCES, RESCHEDULING OR CONTINUANCE REQUESTS WILL BE DENIED.	
11	08/06/2001	SUBPOENA(S) MAILED.	
12	08/09/2001	STATE'S WITNESS SUBPOENA ISSUED. ANTHONY NARDO; MICHAEL NARDO; OFFICER WILLIAMS	
13	08/21/2001	TRIAL CALENDER/PLEA HEARING: PLED GUILTY/PSI ORDERED. SENTENCINGDATE SET FOR TH DAY OF , ,	GOLDSTEIN CARL
14	08/23/2001	SHERIFF'S COSTS FOR SUBPOENAS DELIVERED.	
15	08/23/2001	SHERIFF'S COSTS FOR SUBPOENAS DELIVERED.	

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 3

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969

AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
16	11/21/2001	SUBPOENA(S) MAILED.	COOCH RICHARD R.
17	02/15/2002	LETTER FROM: DAVID FACCILOLO ESQ. PUBLIC DEFENDER TO: JUDGE COOCH RE: ON NOV. 29, 2000, THIS CASE WAS RESCHEDULED SO THAT ADDITIONAL PSYCHOLOGICAL ASSESSMENTS COULD BE COMPLETED PRIOR TO SENTENCING. THIS HAS BEEN COMPLETED AND I AM FORWARDING A COPY OF THE REPORT TO DONALD ROBERTS, DAG, YOUR HONOR AND PRESENTENCE OFFICE. THIS CASE CAN BE PLACED ON A SENTENCING CALENDAR AT HTE COURT'S EARLIEST CONVENIENCE.	
18	05/20/2003	SUBPOENA(S) MAILED.	COOCH RICHARD R.
21	05/29/2003	EMAIL FILED FROM D. FACCILOLO TO RRC RE: NO PSYCH EVALUATION	
22	05/29/2003	EMAIL FILED FROM D. ROBERTS TO RRC RE: PSYCH EVALUATION	
23	05/29/2003	EMAIL FILED FROM D. ROBERTS TO D. FACCILOLO & COURT RE: SENTENCING DELAY	
19		SENTENCING CALENDAR WITH DEFENDANT SENTENCED	COOCH RICHARD R.
20	05/30/2003	SENTENCE: ASOP ORDER SIGNED AND FILED 06/10/03.	COOCH RICHARD R.
24	07/10/2003	TRANSCRIPT FILED. SENTENCING HELD ON 5/30/03 BEFORE JUDGE COOCH	
25	11/07/2003	DEFENDANT'S REQUEST FILED FOR POLICE REPORT, PRESENTENCE REPORT, AND TRANSCRIPT OF SENTENCING. REFERRED TO JUDGE COOCH	
26	11/19/2003	ORDER: MOTION FOR TRANSCRIPTS IS DENIED. COMPLETE ORDER IN FILE.	COOCH RICHARD R.
50	01/07/2004	MANDATE FILED FROM SUPREME COURT: APPEAL DISMISSED. SUPREME COURT CASE NO: 411, 2004 MOTION FOR VOLUNTARY DISMISSAL - GRANTED BY SUPREME COURT.	
27	04/29/2004	SEX OFFENDER REGISTRATION FORM FILED. DE. STATE POLICE HQ.	
28	06/14/2004	PROGRESS REPORT FROM PROBATION AND PAROLE FILED.	COOCH RICHARD R.

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 4

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969

AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
		RECOMMENDATION: OTHER. ADD THE SEX OFFENDER SPECIAL CONDITIONS TO THIS TERM OF PROBATION. *APPROVED BY JUDGE COOCH ON 6/10/04.	
40	07/08/2004	NOTICE FROM ACCOUNTING DEPARTMENT. FINANCIAL OBLIGATIONS FOR THIS CASE HAVE BEEN SATISFIED 12/10/04	
29	07/16/2004	ADMINISTRATIVE WARRANT FILED - LEVEL (4). PROBATION OFFICER: JANET NEW BAIL HEARING HELD THIS DATE AND BAIL SET ON VOPS AS FOLLOWS: BAIL SET: HELD WITHOUT BAIL 0.00 VOP 7/29/04 AT 9:00 BEFORE J. COOCH	VAVALA MARK STEPHEN
30	08/11/2004	PETITION FOR A WRIT OF HABEAS CORPUS FILED (PRO SE) REFERRED TO JUDGE COOCH. DATE REFERRED: 8/11/04 CIVIL CASE NO: 04M-08-042	
31	08/17/2004	ORDER: HABEAS CORPUS PETITION 04M-08-042 IS DENIED. THIS 17TH DAY OF AUGUST, 2004, UPON REVIEW OF THE FOREGOING PETITION FOR A WRIT OF HABEAS CORPUS AND THE RECORD IN THIS CASE, IT IS THE DECISION OF THE COURT THAT THE PETITION IS HEREBY DENIED. PETITIONER IS LEGALLY DETAINED. PETITIONER FAILS TO STATE A CLAIM UPON WHICH SUCH A WRIT MAY BE ISSUED. THE RELIEF REQUESTED IS NOT PROPERLY GRANTED THROUGH A WRIT OF HABEAS CORPUS. IT IS SO ORDERED. RRC	COOCH RICHARD R.
32	08/19/2004	DEFENDANT'S LETTER FILED. TO: JUDGE COOCH LETTER REGARDING PROBATION STATUS	
33	08/30/2004	DEFENDANT'S REQUEST FILED. TO: JUDGE COOCH REQUEST TO BE PLACED ON LEVEL 3 PROBATION	
	09/02/2004	COOCH RICHARD R.	
34	09/02/2004	SENTENCE: ASOP VOP ORDER SIGNED & FILED 9/14/04.	COOCH RICHARD R.
39	09/10/2004	LETTER FROM DEFENDANT RE: SEE LETTER IN FILE	

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969

AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
35	09/17/2004	MOTION FOR MODIFICATION OF SENTENCE FILED PRO SE. REFERRED TO PRESENTENCE 9/22/04 FOR JUDGE COOCH.	
36	09/22/2004	DEFENDANT'S LETTER FILED. TO: JUDGE COOCH LETTER TO BE CONSIDERED WITH MODIFICATION MOTION	
37	09/29/2004	ORDER: MOTION FOR MODIFICATION OF SENTENCE DENIED. 9/29/04- THE SENTENCE WAS IMPOSED AFTER A VOP HEARING WAS HELD, AND THE COURT DETERMINED THE DEF HAD VIOLATED THE TERMS OF HSI PROBATION. THE SENTENCE IS APPROPRIATE FOR ALL THE REASONS STATED AT THE TIME OF SENTENCING. THE SENTENCE IS APPROPRIATE FOR ALL THE REASONS STATED AT THE TIME OF SENTENCING.	COOCH RICHARD R.
38	10/06/2004	LETTER FROM FROM SUPREME COURT TO KATHLEEN FELDMAN, COURT REPORTER RE: A NOTICE OF APPEAL WAS FILED ON 10/01/04. THE TRANSCRIPT IS DUE 11/10/04. 411, 2004	
43	11/09/2004	MOTION FOR MODIFICATION OF SENTENCE FILED PRO-SE. REFERRED TO PRESENTENCE 12/03/04 FOR JUDGE COOCH. * CAN'T SEND FILE CASE IS IN AN APPEAL WITH CLERK LINDA J.	
41	11/17/2004	TRANSCRIPT FILED. VOP HEARING- SEPTEMBER 2, 2004 BEFORE JUDGE COOCH	
	11/24/2004	RECORDS SENT TO SUPREME COURT.	
42	11/24/2004	LETTER FROM SUPREME COURT TO SHARON AGNEW, PROTHONOTARY RE: THE RECORD AND TRANSCRIPT ARE DUE TO BE FILED NOVEMBER 29, 2004. (RECORD AND TRANSCRIPT SENT 11/24/04)	
44	12/02/2004	RECEIPT FROM SUPREME COURT ACKNOWLEDGING RECORD. 411, 2004	
45	12/08/2004	ORDER MOTION FOR MODIFICATION OF SENTENCE DENIED. PURSUANT TO SUPERIOR COURT CRIMINAL RULE 35(B), THE COURT WILL NOT	COOCH RICHARD R.

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 6

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969
 AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
		CONSIDER REPETITIVE REQUESTS FOR REDUCTION OR MODIFICATION OF SENTENCE. THE SENTENCE IS APPROPRIATE FOR ALL THE REASONS STATED AT THE TIME OF SENTENCING. PREVIOUSLY DENIED 09/29/04.	
46	12/13/2004	DEFENDANT'S LETTER FILED. TO: JUDGE COOCH REGARDING EFFECTIVE DATE OF SENTENCE.	
47	12/28/2004	PETITION FOR A WRIT OF HABEAS CORPUS FILED (PRO SE) REFERRED TO JUDGE COOCH. DATE REFERRED: 12/29/04 CIVIL CASE NO: 04M-12-078	
49	01/03/2005	DOCUMENT(S) FILED REGARDING SUPREME COURT APPEAL. RE: MOTION FOR WRIT OF HAVEAS CORPUS RELIEF - FILRED IN SUPREME COURT.	
48	01/04/2005	COOCH RICHARD R. ORDER: HABEAS CORPUS PETITION 04M-12-078 IS DENIED. THIS 3RD DAY OF JANUARY, 2005, UPON REVIEW OF THE FOREGOING PETITION FOR A WRIT OF HABEAS CORPUS AND THE RECORD IN THIS CASE, IT IS THE DECISION OF THE COURT THAT THE PETITION IS HEREBY DENIED. PETITIONER IS LEGALLY DETAINED. PETITIONER FAILS TO STATE A CLAIM UPON WHICH SUCH A WRIT MAY BE ISSUED. THE RELIEF REQUESTED IS NOT PROPERLY GRANTED THROUGH A WRIT OF HABEAS CORPUS. IT IS SO ORDERED. RRC	
51	01/06/2005	COOCH RICHARD R. PROGRESS REPORT FROM PROBATION AND PAROLE FILED. RECOMMENDATION: IV. IT IS RECOMMENDED THAT THE SENTENCE BE MODIFIED SO THAT THE LEVEL IV PORTION MAY BE SERVED AT EITHER WORK RELEASE OR HOME CONFINEMENT. APPROVED BY JUDGE COOCH ON 1/5/05.	
52	01/11/2005	DEFENDANT'S LETTER FILED. TO: JUDGE COOCH INFORMING JUDGE OF PROGRESS MADE IN PRISON.	
53	01/31/2005	MANDATE FILED FROM SUPREME COURT: APPEAL DISMISSED. SUPREME COURT CASE NO: 565, 2004 SUBMITTED: JANUARY 5, 2005 DECIDED: JANUARY 11, 2005	

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 7

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969
 AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event	Judge
	BEFORE STEELE, CHIEF JUSTICE, HOLLAND, AND RIDGELY, JUSTICES. SUPREME COURT HAS NO ORIGINAL JURISDICTION TO ISSUE A WRIT OF HABEAS CORPUS.	
	[REDACTED]	REYNOLDS MICHAEL P.
	[REDACTED]	
	[REDACTED]	
	[REDACTED]	0.00
	[REDACTED]	
	[REDACTED]	COOCH RICHARD R.
	[REDACTED]	
55	02/10/2005	COOCH RICHARD R.
56	03/16/2005	
57	03/24/2005	COOCH RICHARD R.
59	04/07/2005	
58	04/08/2005	
63	04/21/2005	COOCH RICHARD R.
60	05/19/2005	COOCH RICHARD R.
61	05/26/2005	
62	06/02/2005	COOCH RICHARD R.

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 8

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969
 AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
		ORDER: DEFENDAANT'S REQUEST FOR REDUCTION/MODIFICATION OF SENTENCE IS DENIED FOR THE FOLLOWING REASON(S): PURSUANT TO SUPERIOR COURT CRIMINAL RULE 35(B), THE COURT WILL NOT CONSIDER REPETITIVE REQUESTS FOR REDUCTION OR MODIFICATION OF SENTENCE. THE SENTENCE IS APPROPRIATE FOR ALL THE REASONS STATED AT THE TIME OF SENTENCING. NO ADDITIONAL INFORMATION HAS BEEN PROVIDED TO THE COURT WHICH WOULD WARRANT A REDUCTION OR MODIFICATION OF THIS SENTENCE. SO ORDERED JUDGE COOCH.	
		[REDACTED]	VAVALA MARK STEPHEN
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	VAVALA MARK STEPHEN
		[REDACTED]	
		[REDACTED]	COOCH RICHARD R.
		[REDACTED]	
66	08/04/2005	SENTENCE: VOP ASOP ORDER SIGNED AND FILED 8/19/05..	COOCH RICHARD R.
67	10/25/2005	PROBATION AND PAROLE FORM: SEX OFFENDER CONDITIONS SEE DOCUMENT FOR SPECIFIC CONDITIONS.	COOCH RICHARD R.
68		[REDACTED]	COOCH RICHARD R.
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
69		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	REYNOLDS MICHAEL P.
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
71	05/22/2006	COMMITMENT TO DEPARTMENT OF CORRECTION. VOP 6/1/06 @ 9:00	REYNOLDS MICHAEL P.

AKA: MICHAEL HOFFMAN
MICHAEL HOFFMAN

No.	Date	Event	Judge
72		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
74	05/25/2006	SUBPOENA(S) MAILED FOR 06/01/2006 AT 9:00 A.M.	
		[REDACTED]	COOCH RICHARD R.
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
	06/02/2006	SUBPOENA(S) MAILED.	
		[REDACTED]	COOCH RICHARD R.
		[REDACTED]	
		[REDACTED]	
78	06/08/2006	MOTION FOR EXONERATION - WITHDRAWN BY PETITIONER IN OPEN COURT	6/8/06
		[REDACTED]	COOCH RICHARD R.
79	06/08/2006	SENTENCE: ASOP VOP ORDER SIGNED & FILED ON 6/16/06	
		[REDACTED]	COOCH RICHARD R.
76	06/19/2006	SENTENCE: MODIFIED ASOP VOP ORDER SIGNED & FILED ON 7/10/06	
		[REDACTED]	REYNOLDS MICHAEL P.
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	0.00
77		[REDACTED]	REYNOLDS MICHAEL P.
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
82	07/18/2006	MOTION FOR MODIFICATION OF SENTENCE FILED PRO-SE.	
		REFERRED TO PRESENTENCE 07/26/06 FOR JUDGE COOCH.	
80	07/19/2006	PETITION FOR A WRIT OF HABEAS CORPUS FILED (PRO SE)	
		REFERRED TO JUDGE COOCH	
		DATE REFERRED: 07/19/2006	

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 10

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969
 AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
		CIVIL CASE NO: 06M-07-080 RRC	
81	07/20/2006	ORDER: WRIT OF HABEAS CORPUS PETITION 06M-07-080 RRC: DENIED IT IS SO ORDERED. RRC	COOCH RICHARD R.
84	07/31/2006	LETTER FROM SUPREME COURT TO KATHLEEN FELDMAN, COURT REPORTER RE: A NOTICE OF APPEAL WAS FILED ON JULY 21, 2006 THE TRANSCRIPT IS DUE SEPTEMBER 5, 2006. 370, 2006	
83	08/03/2006	ORDER MOTION FOR MODIFICATION OF SENTENCE DENIED. THE SENTENCE WAS IMPOSED AFTER A VOP HEARING WAS HELD, AND THE COURT DETERMINED THE DEFENDANT HAD VIOLATED THE TERMS OF HIS PROBATION. THE SENTENCE IS APPROPRIATE FOR ALL THE REASONS STATED AT THE TIME OF SENTENCING.	COOCH RICHARD R.
85	08/07/2006	MOTION FOR MODIFICATION OF SENTENCE FILED PRO-SE. REFERRED TO PRESENTENCE 08/10/06 FOR JUDGE COOCH.	
86	08/23/2006	ORDER MOTION FOR MODIFICATION OF SENTENCE IS DENIED. PURSUANT TO SUPERIOR COURT CRIMINAL RULE 35(B), THE COURT WILL NOT CONSIDER REPETITIVE REQUESTS FOR REDUCTION OR MODIFICATION OF SENTENCE THE SENTENCE WAS IMPOSED AFTER A VOP HEARING WAS HELD, AND THE COURT DETERMINED THE DEFENDANT HAD VIOLATED THE TERMS OF HIS PROBATION. THE SENTENCE IS APPROPRIATE FOR ALL THE REASONS STATED AT THE TIME OF SENTENCING. PREVIOUSLY DENIED 8/2/06.	COOCH RICHARD R.
87	09/01/2006	TRANSCRIPT FILED. HEARING TRANSCRIPT-JUNE 8, 2006- BEFORE THE HONORABLE RICHARD R. COOCH	
88	09/01/2006	TRANSCRIPT FILED. HEARING TRANSCRIPT-JUNE 22, 2006-BEFORE THE HONORABLE RICHARD R. COOCH	
	09/05/2006	RECORDS SENT TO SUPREME COURT.	
89	09/12/2006	RECEIPT FROM SUPREME COURT ACKNOWLEDGING RECORD. 370, 2006	
90	09/19/2006	MANDATE FILED FROM SUPREME COURT: CASE REMANDED TO SUPERIOR COURT. SUPREME COURT CASE NO: 370, 2006 PURPOSE: REQUEST FOR A REMAND FOR AN EVIDENTIARY HEARING CONCERNING HIS	

SUPERIOR COURT CRIMINAL DOCKET
(as of 12/12/2006)

Page 11

State of Delaware v. MICHAEL K HOFFMAN
 State's Atty: DONALD R ROBERTS , Esq.
 Defense Atty: DAVID J. J FACCILOLO , Esq.

DOB: 12/03/1969
 AKA: MICHAEL HOFFMAN
 MICHAEL HOFFMAN

No.	Event Date	Event	Judge
		REQUEST TO PROCEED PRO SE IS GRANTED, AND THE MATTER IS REMANDED TO THE SUPERIOR COURT PURSUANT TO SUPREME COURT RULES 19(C) AND 26(D) (III), WITH JURISDICTION RETAINED, SUBJECT TO THE FOLLOWING PROCEDURE... THIS HEARING SHOULD TAKE PLACE ON NOTICE TO THE STATE, AND THE TRIAL JUDGE SHOULD PROMPTLY THEREAFTER MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW AND TRANSMIT THE SAME TO THIS COURT.	
91	09/25/2006	LETTER FROM JUDGE COOCH TO COUNSEL & MICHAEL HOFFMAN. RE: THE SUPREME COURT OF DELAWARE, BY ORDER OF SEPT. 14, 2006, HAS REMANDED DEFENDANT'S PRO SE REQUEST HIMSELF ON HIS APPEAL FOR AN EVIDENTIARY HEARING IN THIS COURT. ACCORDINGLY, A SHORT EVIDENTIARY HEARING WILL BE HELD ON MOINDAY, OCT. 23, 2006 AT 9:30 A.M. IF THAT DATE AND TIME ARE NOT CONVENIENT TO MR. ROBERTS AND MR. FACCILOLO, THEY SHOULD PLEASE NOTIFY MY SECRETARY IMMEDIATELY.	COOCH RICHARD R.
92	10/05/2006	DEFENDANT'S REQUEST FILED. REFERRED TO JUDGE COOCH REQUEST TO CANCEL HEARING	
93	10/13/2006	LETTER FROM JUDGE COOCH TO SUPREME COURT RE: PETER LETANG, ESQ, HAS ADVISED THAT HIS CLIENT WANTS TO FILE A VOLUNTARY DISMISSAL SUPREME COURT APPEAL #370, 2006	
		[REDACTED]	VAVALA MARK STEPHEN
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
95	10/19/2006	COMMITMENT TO DEPARTMENT OF CORRECTION. BAIL SET: HWOB	VAVALA MARK STEPHEN
96	11/03/2006	MANDATE FILED FROM SUPREME COURT: APPEAL DISMISSED. SUPREME COURT CASE NO: 370, 2006. VOLUNTARY DISMISSAL BY PETER LETANG, ESQUIRE.	
		[REDACTED]	COOCH RICHARD R.
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	COOCH RICHARD R.
		[REDACTED]	

*** END OF DOCKET LISTING AS OF 12/12/2006 ***
 PRINTED BY: CSCSWAS

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

78

STATE OF DELAWARE

VS.

MICHAEL K HOFFMAN

Alias: No Aliases

DOB: 12/03/1969

SBI: 00426044

CASE NUMBER:
9912017771

2006 JUN 16 PM 2:20

FILED
PROTHONOTARY

CRIMINAL ACTION NUMBER:

~~VN00-01-0272-04~~

VIOL O/PROBATN

ORIG. CHARGE:

SEX SOLIC CHILD(F)

RELEASE

VIOLATION OF PROBATION SENTENCE ORDER

NOW THIS 8TH DAY OF JUNE, 2006, IT IS THE ORDER OF THE COURT THAT: The defendant is found in violation. Defendant is sentenced as follows:

AS TO VN00-01-0272-04 : TIS 11 Del.C.1112A0a1FC
VIOL O/PROBATN - FOUND IN VIOLATION

Effective June 8, 2006 the defendant is sentenced as follows:

- The defendant is placed in the custody of the Department of Correction for ~~2 years~~ at supervision level ~~5~~

~~Suspended immediately~~

~~For 2 years at supervision level 1 HOME CONFINEMENT~~

~~Hold at supervision level 3~~

~~Initial space is available at supervision level 4 HOME CONFINEMENT~~

APPROVED ORDER

1

June 15, 2006 14:06

CERTIFIED AS A TRUE COPY
ATTEST SHARON AGNEW
PROTHONOTARY
BY *Sharon Agnew*

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
MICHAEL K HOFFMAN
DOB: 12/03/1969
SBI: 00426044

CASE NUMBER:
9912017771


NO SPECIAL CONDITIONS AT ORDER LEVEL

NOTES

Defendant shall participate in sex offender counseling as ordered by probation and parole.

Progress reports shall be submitted to the court every 4 months.

This is a zero tolerance probation.



JUDGE RICHARD R COOCH

2006 JUN 16 PM 2:20
FILED
PROTHONOTARY

SENTENCING WORKSHEET

November 30, 2005

DEPT.		AKA: <u>Hoffman, Michael</u>		Date: <u>6-8-06</u>	
CHARGE		ID NUMBER: <u>9912017771</u>		DOB: <u>12-3-69</u>	
LIO:		Cr.A. <u>UN00-01-0272-04</u>		BAC: <u>COACH</u>	
FINANCIAL		<input type="checkbox"/> Pay Costs <input type="checkbox"/> Costs Suspended		<input type="checkbox"/> PD Fee/Conflict <input type="checkbox"/> Surcharges <input type="checkbox"/> Diversion Fee <input type="checkbox"/> SARTEP	
		<input type="checkbox"/> 15% <input type="checkbox"/> 18% <input type="checkbox"/> Pay Fine: \$ <input type="checkbox"/> Amount Suspended \$		<input type="checkbox"/> Civil Penalty <input type="checkbox"/> Civil Judgment:	
				<input type="checkbox"/> OSCCE to collect <input type="checkbox"/> Deemed uncollectible <input type="checkbox"/> Transferred to: Cr.A.	
<input checked="" type="checkbox"/> VOP/Contempt <input checked="" type="checkbox"/> Revoked <input type="checkbox"/> Not Found <input type="checkbox"/> Continued <input type="checkbox"/> Modified <input type="checkbox"/> Discharged <input type="checkbox"/> Withdrawn <input type="checkbox"/> Dismissed <input type="checkbox"/> Resent/Review <input type="checkbox"/> Boot Camp/ Diversion <input type="checkbox"/> Boot Camp <input type="checkbox"/> 4177(d)(5) <input type="checkbox"/> GSP					
Effective: <u>6/8/06</u> Deferred DATE: _____ Facility: _____ Be imprisoned for <u>2</u> years _____ months _____ days At level <u>5</u> Level 5 Treatment: _____					
<input type="checkbox"/> Min. Mandatory time: _____ <input type="checkbox"/> Credit For: _____ Title/Sec: _____ <input type="checkbox"/> No Credit Time Due					
<input checked="" type="checkbox"/> Suspended Immediately <input type="checkbox"/> Suspended Time Served <input type="checkbox"/> Suspended After _____ <input checked="" type="checkbox"/> for <u>2 yrs</u> at level <u>4</u> Crest / Work Rel / <u>(Home conf)</u> VOP center <input type="checkbox"/> Suspended After _____ <input type="checkbox"/> for _____ at level _____ Crest / Work Rel / Home conf / VOP center <input type="checkbox"/> Suspended After _____ <input type="checkbox"/> for _____ at level _____ Crest / Work Rel / Home conf / VOP center Followed by: _____ at level _____ Balance at level _____					
<input type="checkbox"/> Consecutive to: _____ <input type="checkbox"/> Concurrent with: _____					
<input checked="" type="checkbox"/> Level 4 Sentence. Hold at: <u>3</u> <u>4</u> <u>5</u> <input type="checkbox"/> Guilty but Mentally Ill, to be confined at Delaware Psychiatric Center (Delaware State Hospital) until competent.					
RESTIT.		(Victim)		1. _____ AMOUNT: _____ 2. _____ AMOUNT: <u>12</u> 3. _____ AMOUNT: _____	
<input type="checkbox"/> TBD by AG _____ Days <input type="checkbox"/> Determined by ISO <input type="checkbox"/> Joint & Several w/co-def. ID No. _____					
<input type="checkbox"/> All Terms and Conditions Re-imposed <input type="checkbox"/> Pay costs, fines, restitution <input type="checkbox"/> Previously Ordered <input type="checkbox"/> During Probation <input type="checkbox"/> During / Within _____ <input type="checkbox"/> No Contact with: _____ <input type="checkbox"/> Drug Court Standard Conditions <input type="checkbox"/> Comm Serv: _____ Hrs <input type="checkbox"/> No Driving Per Statute: _____					
<input type="checkbox"/> Residential Drug/Alcohol <input type="checkbox"/> Outpatient Drug/Alcohol <input type="checkbox"/> 4177 DUI Program <input type="checkbox"/> Alcohol Treatment <input type="checkbox"/> Random Urinalysis <input checked="" type="checkbox"/> Zero Tolerance <input type="checkbox"/> Mental Health Eval. <input type="checkbox"/> Sub. Abuse Eval. <input type="checkbox"/> No Drugs/Alcohol Unless Medically Prescribed.					
<input type="checkbox"/> Parenting <input type="checkbox"/> TASC Eval / Monit <input type="checkbox"/> DVCC <input type="checkbox"/> DHSS Conditions <input type="checkbox"/> Anger Management <input type="checkbox"/> Obtain GED <input type="checkbox"/> Job Training <input type="checkbox"/> Fully Employed <input type="checkbox"/> Forfeit:					
<input type="checkbox"/> TIER LEVEL: <input type="checkbox"/> SEX OFFENDER: Registration per 11 Del C. § 4120-4122; 11 Del C. § 4336. <input type="checkbox"/> 21 Del.C. § 2718 (Felony Only) <input type="checkbox"/> DNA Testing <input type="checkbox"/> HIV Testing					
Mitigating/Aggravating: <u>SB 50:</u> <input type="checkbox"/> Nolle Prosses entered on remaining charges. <input type="checkbox"/> Nolle Prosses entered on Criminal Action Number(s):					
Other Conditions: <u>Progress reports every 4 months</u> <u>Sex Offender program / counseling as order by PIP</u>					

DEFENSE:

DAG:

CLERK:

CT. REPORTER/FTR:

PROBATION:

TASC:

LetangLewisPavone

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

79

STATE OF DELAWARE

VS.

MICHAEL K HOFFMAN

Alias: No Aliases

DOB: 12/03/1969

SBI: 00426044

CASE NUMBER:
9912017771

CRIMINAL ACTION NUMBER:

[REDACTED]

VIOL O/PROBATN

ORIG. CHARGE:

SEX SOLIC CHILD(F)

COMMITMENT

MODIFIED VIOLATION OF PROBATION SENTENCE ORDER

NOW THIS 22ND DAY OF JUNE, 2006, IT IS THE ORDER OF THE COURT THAT: the order dated June 8, 2006 is hereby modified as follows: The defendant is found not in violation. Defendant is sentenced as follows:

AS TO VN00-01-0272-05 : TIS 11 Del.C.1112A0a1FC
VIOL O/PROBATN - NOT IN VIOLATION

Effective June 13, 2006 the defendant is sentenced as follows:

- Probation is continued with such modification as shown hereafter.

- The defendant is placed in the custody of the Department of Correction for 2 year(s) at supervision level 6

[REDACTED]

[REDACTED]

[REDACTED]

WORK RELEASE

- For 18 month(s) supervision level 3
APPROVED ORDER 1 July 6, 2006 14:07

ATTEST: SHARON AGNEW
PROTHONOTARY

Sharon Agnew

FILED
PROTHONOTARY

2006 JUL 10 PM 12:17

STATE OF DELAWARE

VS.

MICHAEL K HOFFMAN

Alias: No Aliases

DOB: 12/03/1969

SBI: 00426044

CASE NUMBER:
9912017771

CRIMINAL ACTION NUMBER:
VN00-01-0272-06

~~VIOL O/PROBATN~~

ORIG. CHARGE:
SEX SOLIC CHILD(F)

COMMITMENT

VIOLATION OF PROBATION SENTENCE ORDER

NOW THIS 9TH DAY OF NOVEMBER, 2006, IT IS THE ORDER OF
THE COURT THAT: The defendant is found in violation.
Defendant is sentenced as follows:

AS TO VN00-01-0272-06 : TIS 11 Del.C.1112A0a1FC
VIOL O/PROBATN - FOUND IN VIOLATION

~~Effective November 9, 2006, the defendant is sentenced
as follows:~~

~~- This sentence is consecutive to any sentence now serving.~~

~~The defendant is placed on the custody of the Department
of Correction for 2 months at a supervision level 5.~~

- No probation to follow.

APPROVED ORDER

1

November 17, 2006 10:11

CERTIFIED AS TRUE COPY
ATTEST: SHARON AGNEW
PROTHONOTARY
BY Sharon Agnew

STATE OF DELAWARE
VS.
MICHAEL K HOFFMAN
DOB: 12/03/1969
SBI: 00426044

CASE NUMBER:
9912017771

NO SPECIAL CONDITIONS AT ORDER LEVEL


JUDGE RICHARD R COOCH

FILED
PROTHONOTARY

2006 NOV 21 PM 2:56

APPROVED ORDER

2

November 17, 2006 10:11



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
BUREAU OF PRISONS
245 MCKEE ROAD
DOVER, DELAWARE 19904
TELEPHONE: (302) 739-5601

January 3, 2007

Michael Hoffman 00426044
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

Re: Your Letter Dated 12/29/06

Mr. Hoffman,

Your letter was received in my office this date.

You first raised an issue about the accuracy of your status sheet. The calculation is correct. As noted in your VOP court order, the sentence handed down on 11/9/06 was to run consecutive to any sentence that you were presently serving. The 60day sentence that you were serving for Escape 3rd ended on 12/16/06, and the VOP sentence began on that date. The calculation of your sentence is correct, and is consistent with both the Court order and Delaware law.

As to your complaint regarding classification, I have been advised that your case has been assigned to a classification worker. I expect that you will have a classification hearing in the near future. Please be patient.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anthony J. Rendina".

Anthony J. Rendina
Inmate Classification Administrator

SENTENCING WORK

ANT NAME:

SBI: 00426044

Date: 11-9-06

Time: 9:05

Judge: RBC

ID NUMBER: 991201771

DOB: 12/3/69

CHARGE: Sex Solic. Child-VOP

☐ No Injury or Death Pursuant to 21 Del. C. § 4205A: Defendants convicted under §4177B(e)(1)a-d; the terms of imprisonment defined in this title may be served at Level 4 as defined in 11 Del. C. §4204(c)(4).

LIO: —

Cr.A. VN 00 01 0272-06

BAC:

☐ 4214(a)☐ 4214(b)☐ Pay Costs
☐ Costs Suspended☐ PD Fee/Conflict
☐ Surcharges
☐ Diversion Fee
☐ SARTEP☐ 15% ☐ 18%
☐ Pay Fine: \$ _____
☐ Amount Suspended \$ _____☐ Civil Penalty
☐ Civil Judgment: _____☐ OSCCE to collect
☐ Deemed uncollectible
☐ Transferred to: Cr.A. _____☒ VOP/Contempt ☒ Revoked ☐ Not Found ☐ Continued ☐ Modified ☐ Discharged ☐ Withdrawn ☐ Dismissed☐ Resent/Review ☐ Boot Camp/ Diversion ☐ Boot Camp ☐ 4177(d)(5) ☐ GSP

Effective: 11/9/06

Deferred DATE: _____ Facility: _____

Be imprisoned for _____ years 9 months _____ days _____ At level 5

Level 5 Treatment: _____

☐ Min. Mandatory time: _____
Title/Sec: _____☐ Credit For: _____
☐ No Credit Time Due

(CIRCLE ONE)

COMMITMENT

RELEASE

DEFERRED
COMMITMENT☐ Suspended Immediately☐ Suspended Time Served☐ Suspended After _____ ☐ for _____ at level _____

Crest / Work Rel / Home conf / VOP center

☐ Suspended After _____ ☐ for _____ at level _____

Crest / Work Rel / Home conf / VOP center

☐ Suspended After _____ ☐ for _____ at level _____

Crest / Work Rel / Home conf / VOP center

Followed by: NO Probation to follow Balance at level _____

☒ Consecutive to: Any sentence now serving ☐ Concurrent with:☐ Level 4 Sentence. Hold at:
3 4 5☐ Guilty but Mentally Ill, to be confined at Delaware Psychiatric Center (Delaware State Hospital) until competent.

RESTIT.

☐ TBD by AG _____ Days
☐ Determined by ISO
☐ Joint & Several w/co-def.
ID No. _____

(Victim)

1. _____ AMOUNT: _____
2. _____ AMOUNT: _____
3. _____ AMOUNT: _____

CONDITIONS

☐ All Terms and Conditions Re-imposed☐ Pay costs, fines, restitution☐ Previously Ordered☐ During Probation☐ During / Within _____☐ No Contact with: _____☐ Drug Court Standard Conditions☐ Comm Serv: _____ Hrs☐ No Driving Per Statute:

Mitigating/Aggravating: SB 50:

☐ Residential Drug/Alcohol☐ Outpatient Drug/Alcohol☐ 4177 DUI Program☐ Alcohol Treatment☐ Random Urinalysis☐ Zero Tolerance☐ Mental Health Eval.☐ Sub. Abuse Eval.☐ No Drugs/Alcohol Unless
Medically Prescribed.☐ Parenting☐ TASC Eval / Monit☐ DVCC☐ DHSS Conditions☐ Anger Management☐ Obtain GED☐ Job Training☐ Fully Employed☐ Forfeit:

Other Conditions:

☐ TIER LEVEL:☐ SEX OFFENDER:

Registration per

11 Del C. § 4120-4122;

11 Del C. § 4336.

☐ 21 Del.C. § 2718

(Felony Only)

☐ DNA Testing☐ HIV Testing

DEFENSE:

DAG:

CLERK:

CT. REPORTER/FTR:

PROBATION:

TASC:

November 30, 2005

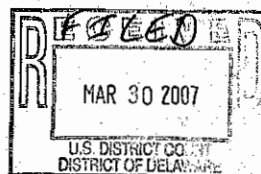
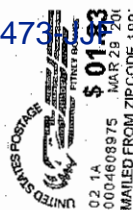
Date: 03/01/2007

SBI #: 00426044 Name: MICHAEL K HOFFMAN Sex: M
 Location(s): DCC Level(s): 5 Race: WHITE DOB: 12/03/1969 Sex Offender: [X]
 AKA: MICHAEL HOFFMAN
 Offender Type: Sentenced Officer(s):

Level: 5											
Start Date: 10/18/2006		MED: 09/15/2007		STRD: 08/24/2007		ADJ: 08/24/2007		PED:		Statutory Days Earned: 22.00	
CASE#	CRA#	Charge Desc	Status	Length	Start Dt	MED	STRD	Adj Date	CR Wk		
Court Type	Judge	Sen. Type/ Sentence Date	Eff. Date	Y M D							
0610009240	PS06 6379	ESCAPE A/CONV.	Current								
U6		4204K NEW	10/26/2006	10/18/2006	0 60	10/18/2006	12/16/2006	12/16/2006	12/16/2006		
U7	Richard R Cooch	STANDARD	11/09/2006	12/16/2006	0	12/16/2006	09/15/2007	08/24/2007	08/24/2007		

Special Conditions:

CRA#	Level	Code	Condition Description	Condition Comments
PS06 6379	5	CRT1	Other Conditions:	SENTENCED TO 60 DAYS AT LV 5, WITH CREDIT FOR TIME SERVED. UNDER 4204(K) . LJS
VN0001027206	5	CRT1	Other Conditions:	



(Att) PETER DALLEO Clerk
 UNITED STATES DISTRICT COURT
 DISTRICT OF DELAWARE
 844 King Street
 Wilmington Delaware
 19801

Time Sensitive
 LEGAL MAIL PER

IM 12

SBI# 465594

UNIT 111

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977

RAY